



DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Broadband Pilot (ReConnect) Program

AGENCY: Rural Utilities Service, Department of Agriculture.

ACTION: Notice; amendment to Funding Opportunity Announcement (FOA) and solicitation of applications and program updates.

SUMMARY: The Rural Utilities Service (RUS) published a Funding Opportunity Announcement (FOA) and solicitation of applications in the *Federal Register* on Friday, December 14, 2018, announcing its general policy and application procedures for funding under the broadband pilot program (ReConnect) established pursuant to the Consolidated Appropriations Act, 2018 which provides loans, grants, and loan/grant combinations to facilitate broadband deployment in rural areas. Since the publication of the FOA, the Consolidated Appropriations Act of 2019 (2019 Appropriations Act) became law on February 15, 2019. The purpose of this notice is to inform the public of changes made to the ReConnect Program, specifically the updated service area eligibility policies, pursuant to the 2019 Appropriations Act, and other program updates.

DATES: Actions described in this notice take effect [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: For general inquiries regarding the ReConnect Program, contact Chad Parker, Assistant Administrator Telecommunications Program, Rural Utilities Service, U.S. Department of Agriculture (USDA), email: chad.parker@wdc.usda.gov, telephone (202) 720-9554. For inquiries regarding eligible service areas, please contact ReConnect Program Staff at <https://www.usda.gov/reconnect/contact-us>.

SUPPLEMENTARY INFORMATION:

Background

On December 14, 2018, RUS published a Funding Opportunity Announcement (FOA) and solicitation of applications in the *Federal Register* at 83 FR 64315. The FOA provided the policy and application procedures for the ReConnect Program. In support of the ReConnect Program, the agency also established an eligibility area map and application mapping tool designed to assist in the determination of service area eligibility across the United States. These tools include four categories of data that indicate potential eligibility of rural areas, including data on the CAF II – Auction 903 winners, non-rural areas, pending applications, and protected broadband borrower service areas. On Monday, February 25, 2019, the Agency published a notice in the *Federal Register* (84 FR 5981) to provide the final application windows and clarification for the ReConnect Program.

Since the publication of the December 14, 2018 FOA, the 2019 Appropriations Act became law on February 15, 2019. The 2019 Appropriations Act requires that the Agency shall, in determining whether an entity may overbuild, or duplicate broadband expansion efforts made by any entity that has received a broadband loan from RUS, not consider loans that were rescinded

or defaulted on, or whose loan terms and conditions were not met, if the new entity under consideration has not previously defaulted on, or failed to meet the terms and conditions of, an RUS loan or had an RUS loan rescinded. To address these issues, the actions taken in this notice will: (1) revise the definition of Broadband loan in the FOA, as published in the *Federal Register* on December 14, 2018, as required by the 2019 Appropriations Act; (2) describe any changes to the data used in the protected broadband service areas mapping layer and, (3) announce the criteria by which applicants may challenge the determination of service area eligibility. These actions are being taken by the Agency to ensure that all eligible service areas receive fair consideration for funding under the ReConnect Program.

Summary of Program Changes

As required by the 2019 Appropriations Act, the *Broadband loan* definition in the FOA published in the Federal Register on December 14, 2018 FOA, must be revised.

On page 64316, in the first column, seventh paragraph, revise the definition of *Broadband loan* to read as follows:

Broadband loan means, for the purposes of this FOA, a loan that has been approved or is currently under review by RUS after the beginning of Fiscal Year 2000 in the Telecommunications Infrastructure Program, Farm Bill Broadband Program, or the Broadband Initiatives Program. Loans that were approved and then subsequently de-obligated or otherwise rescinded or defaulted on, or whose loan terms and conditions have not been met are not included in this definition.

RUS is also taking further actions to ensure that all eligible service areas receive fair consideration for funding under the ReConnect Program. These actions are as follows:

(a) Changes to the data used in the Protected Broadband Borrower Service Areas mapping layer. To ensure that the mapping resources available in the ReConnect Program are consistent with the revised definition of Broadband loan, the Agency reviewed its loan portfolio and identified loans that were fully rescinded or are in default, or whose loan terms and conditions were not met. Data associated with these loans have been removed from the Protected Broadband Borrower Service Areas mapping layer, so that the associated service areas will not appear ineligible according to this criterion. Both the eligibility area map and the application mapping tool have been updated to reflect these removals.

(b) Criteria by which applicants may challenge the determination of service area eligibility. To enhance the accuracy of the ReConnect Program's mapping resources, the Agency acknowledges the value of the applicant's analysis of broadband access available in a given service area. Therefore, an applicant may challenge the protected status of a service area if the applicant believes that at least 75 percent of the households in the part of the proposed funded service area in which they are seeking ReConnect funds are not receiving broadband service at the level for which an original RUS broadband loan was made. Note that the lack of 10/1 Mbps in the service territory of older broadband loans does not purport to non-compliance with their loan agreement, due to then, existing service requirements. At the time the challenge is made, the original RUS broadband loan must have been rescinded, defaulted on, or the terms and conditions of the original loan must not have been met.

(c) Until further changes to a challenge system can be made in future rounds of funding, for the present round of funding, these challenges will only be considered when submitted with an application for ReConnect funding. Additionally, the agency will only validate the challenge if the application is determined to be complete, feasible, and, if applicable, scored high enough for funding consideration. The agency will assess the ability to expand its challenge process for future rounds of funding.

Dated: March 28, 2019.

Bette B. Brand,

Acting Administrator, Rural Utilities Service.

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